

REMARKS

In the Office Action summary, the Examiner indicated that claims 21-25, 28, 32, 33, 36 and 63-65 are pending in the application. Of those claims, 21-25 and 28 are withdrawn from consideration and claims 32, 33 and 36 are indicated as allowed. Claims 63-65 were rejected under 35 U.S.C. § 102(b) as being anticipated by Elliott and Lazarus. Claim 63 was rejected under 35 U.S.C. § 102(b) as being anticipated by Hartenbach.

As amended, claim 63 calls for a tubular graft having a pair of free ends, and a ring comprising a bundle of concentrically overlapping windings formed of a resilient strand of wire, the ring located adjacent one of the free ends and coaxial with the tubular graft. It is respectfully submitted that neither Elliott nor Lazarus disclose or suggest a ring comprising a bundle of concentrically overlapping windings formed of a strand of resilient wire that is located adjacent a free end of a tubular graft and coaxial with the tubular graft. As such, claims 63 and 64 are not anticipated by Elliott or Lazarus.

Similarly, Hartenbach does not disclose or suggest a ring comprising a bundle of concentrically overlapping windings formed of a strand of resilient wire. For example, flexible section 8 includes an elastic metal wire that is formed into a tensioned toroidal spring coil with the individual turns being close to each other. Column 2, lines 64-67. Thus, the individual turns are not overlapping, they are merely close to each other. For this reason alone, Hartenbach does not anticipate claim 63. Further, the spring turns of Hartenbach are not concentric. For this additional reason, Hartenbach does not anticipate claim 63.

Claim 65 calls for a tubular graft having a pair of free ends, and a ring comprising a bundle of overlapping windings formed from a strand of resilient wire, the ring secured to the graft adjacent one of the free ends thereof, wherein the minimum bending diameter of the ring is less than that of a solid ring of the same dimensions. Claim 65 was rejected as being anticipated by both Elliott and Lazarus based on the principle of inherency. To be inherent, the intrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference. *In re Robinson*, 169 F.3d 743 (Fed. Cir. 1999) (emphasis added).

Further, the mere fact that a certain thing may result from a given set of circumstances is not sufficient to establish inherency. *Id.* at 745.

It is respectfully submitted that neither Elliott's loop 26 nor Lazarus's spring 136 necessarily has a minimum bending diameter that is less than a solid ring of the same diameter. The minimum bending diameter may depend upon a variety of factors such as the material used to make the ring and the number of strands that make up the ring, as a few examples. Elliott's split ring 12 is only springable or bendable to the extent that a vein may pass between legs 28 of the split ring. See column 3, lines 9-12. Lazarus's helical coil springs 136 "yieldably urge the legs 137 and 138 of each of the vees 132 [of the spring means 131] outwardly at a direction at right angles to the plane in which each of the vees lie." Column 8, lines 51-55. Neither loop 26 of Elliott, et al. nor the spring 136 of Lazarus are described as having a minimum bending diameter and neither are folded upon themselves. As such, neither loop 26 nor spring 136 necessarily has a minimum bending diameter that is less than a solid ring of the same dimensions. Elliott and Lazarus simply fail to address minimum bending diameter. Without a showing that the minimum bending diameter of the rings in Elliott and Lazarus must be less than that of a solid ring of the same dimensions the rejection should be withdrawn. Merely concluding that the feature is inherent does not meet the burden to establish inherency. Thus, because minimum bending diameter is not an inherent feature of either Elliott or Lazarus, neither reference anticipates claim 65.

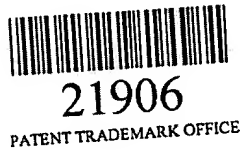
For at least the reasons explained above, claims 63-65 are believed to be patentable over the cited references. Further, new claim 66 is believed to be patentable over the cited references. Accordingly, the application is in condition for allowance. The Applicant respectfully requests that the Examiner pass the application to issue.

CONCLUSION

The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 20-1504 (VAS.0002US).

Respectfully submitted,

Date: 6-12-03



A handwritten signature in cursive script, appearing to read "Rhonda L. Sheldon", is written over a horizontal line.

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